

1 Andrew H. Wilson  
2 WILSON, RYAN & CAMPILONGO  
3 115 Sansome Street  
4 Fourth Floor  
5 San Francisco, CA 94104  
6 (415) 391-3900

7 Laurie J. Bartilson  
8 MOXON & BARTILSON  
9 6255 Sunset Blvd., Suite 2000  
10 Hollywood, CA 90028  
11 (213) 960-1936

12 Attorneys for Creditor  
13 CHURCH OF SCIENTOLOGY INTERNATIONAL

14 UNITED STATES BANKRUPTCY COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 In re

17 GERALD ARMSTRONG,

18 Debtor

19 ) CASE NO. 95-10911 aj  
20 )  
21 ) CHURCH OF SCIENTOLOGY  
22 ) INTERNATIONAL'S  
23 ) MEMORANDUM OF POINTS AND  
24 ) AUTHORITIES IN SUPPORT OF  
25 ) MOTION TO STRIKE EVIDENCE  
26 ) FILED BY DEBTOR GERALD  
27 ) ARMSTRONG, OR, IN THE  
28 ) ALTERNATIVE TO PERMANENTLY  
SEAL VOLUMES I AND VI OF  
ARMSTRONG'S EVIDENCE IN  
SUPPORT OF MOTION FOR  
RELIEF FROM STAY AND FOR  
SANCTIONS  
[Bk.Rules 9018, 9011]  
DATE: June 9, 1995  
TIME: 9:00 a.m.  
CTRM: Hon. Alan Jaroslovsky

## INTRODUCTION

This memorandum of points and authorities is submitted in support of creditor Church of Scientology International's ("the Church") motion to strike the evidence filed by debtor Gerald Armstrong ("Armstrong") in opposition to the Church's pending motion for relief from stay, and for sanctions. Armstrong filed a stack of documents more than 15 inches high, which were unrelated to the motion at issue, prejudicial, and contained confidential Church scriptures which are protected trade secrets pursuant to California and federal law. The Church requests that the Court strike the documents from its records, sanction Armstrong for his bad-faith filing, and issue an order preventing Armstrong from, in the future, filing any documents which are, contain, or refer to copies, altered versions, or revisions of the Church's confidential scripture.

## STATEMENT OF FACTS

On May 15, 1995, Armstrong filed two declarations and seven volumes of "Evidence in Support of Opposition to Scientology's (sic) Motion for Relief From Stay" ("the evidence"). The evidence had nothing to do with the issues presented by the Church's motion for relief, which is a straightforward motion asking the Court to permit the Church to conclude the nearly-finished state court action against Armstrong.

In his cover declaration, Armstrong stated that he had submitted this large stack of evidence "to show that contrary to [the Church of] Scientology's allegations I have valid defenses to its claims, and have not been willfully dilatory. . . ." [Armstrong Declaration ¶6.] Armstrong also stated that he had submitted the evidence because he had "no better way of responding" to the Church's motion. [*Id.*]

The papers which Armstrong thus filed consist of a "separate statement" to summary adjudication motions which are pending in state court, several declarations from Armstrong's friends concerning Armstrong's alleged "saintliness" and the alleged "unChristian" nature of Scientology, and a compendium of declarations and exhibits,



1 all of which were previously filed by Armstrong in support of various motions in the  
2 state court case. Armstrong has asserted that all of these documents were used by  
3 him as "evidence" in opposing the summary adjudication motions which were pending  
4 at the time that he filed for bankruptcy; however, most of them were never actually  
5 filed with the superior court in opposition to those motions. Only a single declaration  
6 was filed by Armstrong in opposition to those motions, the declaration of Lawrence  
7 Wollersheim, and that declaration was filed late. [See, Declaration of Laurie J.  
8 Bartilson in Support of Emergency Motion to Seal ("Bartilson Dec."), ¶7.]

9 In addition, the papers filed by Armstrong contain hearsay, rumor, and innuendo  
10 of the most scandalous and defamatory sort. They are rife with Armstrong's opinions  
11 concerning his former faith, none of which are laudatory.<sup>1</sup>

12  
13 <sup>1</sup> Examples of Armstrong's use of strong derogatory and scandalous allegations,  
14 backed by nothing, abound. Elevating his own status to that of saint, Armstrong  
15 falsely accuses the Scientology religion, and all of its adherents, of crimes against not  
16 just Armstrong, but also against God (which range from hurting Armstrong's feelings  
17 to finding out and exposing his unsavory activities). And he frequently does so by  
asserting that he is aware of these "facts," not from personal knowledge, but because  
God told him. For example, in his Declaration dated April 14, 1995, Armstrong  
states:

18 "I believe that God continues to use me to reflect the  
19 unworthiness and bankruptcy of Hubbard's attempt to create his own  
salvation plan, against the infallibility and peaceful grandeur of God's  
Plan." [¶8]

20 "[God] allowed Scientology to sue me so that its abuse of His  
21 children, the pathology of its 'religious leader,' and the baseness of its  
'theology' would be brought to light through my 1984 trial and the  
22 resulting 'Breckenridge decision.'" [Id., ¶9]

23 "[God] allowed Scientology's leaders to become intoxicated by  
24 their own lies so that they would try time after time to have me jailed on  
their false and manufactured criminal charges. He allowed their self-  
deception, so that they concocted a perverse intelligence scheme to  
entrap me in a crime and have me prosecuted." [Id., ¶12.]

25 "I believe, moreover, that Scientologists will not recognize their  
26 need for forgiveness as long as they blaspheme the Holy Spirit, and they  
will persecute me as long as they commit and promote this blasphemy;  
27 so I ask them to stop. I ask as well that they not persecute the little  
ones, those who are the least among us, those whom Scientology's  
28 leaders call "suppressive persons," "PTsEs" or "degraded beings," for in



1 None of this paper sheds any light on the issues presented by the motion for  
2 relief from stay; moreover, none of it "proves" that Armstrong wasn't dilatory. The  
3 real circumstances are quite simple: Armstrong did not have any of this paper  
4 prepared or filed in time for it to be considered on the summary adjudication motions  
5 pending before the state court; the state court determined that he had been dilatory,  
6 and denied his application for a continuance; he filed for bankruptcy to avoid the  
7 consequences.

8 Indeed, the papers filed herein by Armstrong appear to be, instead, an attempt  
9 to convince the Court that the Church is "bad," that Armstrong is a Christian, and  
10 that the Court should therefore act simply to be merciful to Armstrong, ignoring the  
11 law. Neither the declarations nor any of the volumes of exhibits offer any evidence  
12 which is probative of the motion for relief from stay.

13 Volume VI of the evidence includes, as Exhibit 7, a declaration of Armstrong  
14 and accompanying exhibits which were first filed by Armstrong in the Marin Superior  
15 Court on January 19, 1995. Exhibits A and M to that declaration consist of altered  
16 or re-created versions of highly sacred confidential scriptures which are always  
17 maintained confidential as a matter of Church doctrine and belief. [Bartilson Dec., ¶

---

18  
19 that persecution they persecute Christ Himself. I know that God for His  
20 Purposes chose me to be persecuted; and to care and hurt when the  
21 little ones are persecuted. . . . In the end times it is expected that  
22 antichrist would use man's laws and courts to enforce his evil contracts  
23 by which he would bind, torment and destroy God's sons. God chose  
24 me to be persecuted by Scientology's leaders, using their organization's  
25 tax-exempt millions, and in violation of the nation's constitution, as  
26 Apostles of old were persecuted, and all God's Disciples have been  
27 persecuted throughout history. [Id., ¶52.]

28 The seven volumes of "evidence" which accompany this declaration are similar  
in content, full of derogatory and hysterical accusation having nothing to do with  
Armstrong's bankruptcy, the relief from stay requested, or the underlying contract  
action.

This material is scandalous, defamatory, and improper in a secular court. It is  
not relevant to any issue in this case. Armstrong apparently wishes to use this  
court's files as a pulpit from which to preach his own peculiar brand of anti-  
Scientology venom. He need not be permitted to do so.



1 2.] Further, these materials are confidential trade secrets belonging to the Church,  
2 which Bankruptcy Rule 9018 and California Civil Code § 3426.5 provide shall be  
3 protected by the court.

4 On the Church's immediate ex parte application, the Superior Court moved the  
5 documents at issue into chambers and kept them sealed from public view until the  
6 Church could bring a motion to strike. [Bartilson Dec., ¶ 3.]

7 On January 23, 1995, the Church moved to strike the declaration which  
8 appears as Exhibit 7 in Volume VI herein, or, in the alternative, for an order sealing  
9 Exhibits A and M thereto. [Bartilson Dec., Exhibit A.] On January 28, 1995, the  
10 Honorable Gary W. Thomas ordered the materials stricken from the Court files, and  
11 required Armstrong to pay the Church \$700 in sanctions for his bad-faith filing.  
12 [Bartilson Dec., Exhibit B.] Thereafter, the Court instructed his clerk to shred the  
13 declaration and its exhibits, and Ms. Bartilson confirmed that the clerk had done so.  
14 [Bartilson Dec., ¶ 4.]

15 Included in Volume I of Armstrong's evidence are declarations of Hana  
16 Whitfield, Dennis Erlich and Keith Scott. Attached as exhibits to each of these  
17 declarations are copies of additional confidential and protected Church scripture. In  
18 addition, Ms. Whitfield's declaration contains a lengthy discussion of some of the  
19 protected materials.

20 As soon as Armstrong filed these documents herein, the Church moved to seal  
21 Volumes I and VI pending a rapid hearing on this motion. This Court granted the  
22 Church's motion on May 18, 1995.

## 23 ARGUMENT

### 24 I. The Evidence Filed By Armstrong Should be Stricken Because It Is 25 Irrelevant, Scandalous And Defamatory

26 Rule 9018 of the Bankruptcy Rules provides in relevant part that,

27 On motion or on its own initiative, with or without notice, the  
28 court may make any order which justice requires . . . (2) to protect any  
entity against scandalous or defamatory matter contained in any paper  
filed in a case under the Code. . . .



1 This Rule is similar to Federal Rule of Civil Procedure 12(f), which has been  
2 applied to strike just such scandalous allegations as Armstrong has placed in this  
3 Court's files. In Agran v. Isaacs, 306 F.Supp. 945 (N.D. Ill. 1969), an *amicus curiae*  
4 motion was stricken which was found to contain "libelous misrepresentations." Id.  
5 at 947-48. The Court, in striking the papers pursuant to the authority of Rule 12(f),  
6 stated:

7 These papers are replete with reckless and sensational libelous  
8 accusations, and employ the most deplorable devices of guilt by  
association, innuendo, and trial by press.

9 Id. at 948; Rawson v. Sears Roebuck & Co., 585 F.Supp 1393 (D. Col.  
10 1984)(appropriate to use Rule 12(f) to strike assertions which were "immaterial,  
11 impertinent or scandalous.")

12 Indeed, Courts need not tolerate venomous attacks such as Armstrong's. In  
13 Pollack v. Aspbury 14 F.R.D. 454 (S.D.N.Y. 1953), cert. den. 348 U.S. 903, 75 S.Ct.  
14 228 (1954), the court ordered a pleading full of strident accusation stricken. The  
15 plaintiff had sued fifty individual and corporate defendants, alleging a "far flung and  
16 evil conspiracy" to deprive him of real property, extort him, assault him, and separate  
17 him from his wife and children. Id. at 455. He vigorously attacked the persons and  
18 corporations named as defendants, calling them, *inter alia*, "a graft ridden lot," a  
19 couple of "mad crazy sex maniacs," "a double crosser, a swindler, and a shyster."  
20 Id. at 456. After reviewing the complaint, the Court held:

21 [P]laintiff's complaint is a long series of unrestrained and venomous  
22 attacks upon persons and corporations against whom he has a grudge.  
23 It is indecent, and violative of every rule of pleading of which I have  
24 knowledge. It should not be permitted to pollute the records of this  
Court. Consequently, I will direct that it be stricken from the files of the  
Clerk.

25 Pollack v. Aspbury, 14 F.R.D. at 456.

26 So, here, the Court should strike the evidence filed by Armstrong, and order it  
27 returned to him. It is not probative of any issue before the court, and its content is  
28 "a long series or unrestrained and venomous attacks upon person and corporations



1 against whom he has a grudge." Id.

2 **II. The Evidence Filed By Armstrong Should Also Be Stricken Because It**  
3 **Contains Protected Trade Secrets.**

4 Rule 9018 also provides that,

5 On motion . . . the court may make any order which justice  
6 requires (1) to protect the estate or any entity in respect of a trade  
secret or other confidential research, development, or commercial  
information . . . .

7 Moreover, under California law, protection of trade secrets, or even matters  
8 alleged to be trade secrets, is a substantive right:

9 . . . . [A] court shall preserve the secrecy of an alleged trade secret by  
10 reasonable means, which may include granting protective orders in  
connection with discovery proceedings, holding in-camera hearings,  
11 sealing the records of the action, and ordering any person involved in the  
litigation not to disclose an alleged trade secret without prior court  
12 approval.

13 California Civil Code § 3426.5 (emphasis supplied).

14 Here, Armstrong has filed the Church's confidential materials in this Court's  
15 public files solely to harass the Church. He is well aware of the Church's interest in  
16 the documents as trade secrets. Indeed, the materials in question have been judicially  
17 recognized as trade secrets under Civil Code § 3426.1 in Bridge Publications Inc. v.  
18 Vien (S.D.Cal. 1993) 827 F.Supp. 629 at 633, citing Religious Technology Center v.  
19 Scott (9th Cir. 1989) 869 F.2d 1306, 1309-10 (holding that the Advanced  
20 Technology can be protectable as a trade secret).<sup>2</sup> The documents in Volumes I and  
21 VI are re-creations of portions of Advanced Technology which the Vien court has  
22 already adjudicated to be trade secrets as a matter of law.

23 Armstrong's interjections of these materials into the Court's files is

---

24 <sup>2</sup> In Vien, the Court granted summary judgment for trade secret misappropriation,  
25 finding these confidential scriptures to be trade secrets as a matter of law. Id. at 633.  
26 The Vien court specifically recognized that the confidentiality and security  
requirements of Civil Code § 3426.1 had been met with respect to the Advanced  
27 Technology, and that it had independent economic value. 827 F.Supp. at 633,  
28 quoting Murdock v. Commonwealth of Pennsylvania (1943) 319 U.S. 105, 111, 63  
S.Ct. 870, 874, 87 L.Ed. 1292; Cal. Civ. Code § 3426.1(d).



1 objectionable not merely because they are trade secrets, but also because a church  
2 has a generalized interest in maintaining confidentiality of internal documents both for  
3 itself and its parishioners. U.S. v. Hubbard (D.C.Cir. 1980) 650 F.2d 293, 306-07.  
4 The documents in Volumes I and VI are not the subject of this litigation. Armstrong  
5 obviously has filed these documents intentionally only because he knows it will upset  
6 plaintiff's parishioners and staff.

7 These documents add nothing to the court's consideration of the issues  
8 properly before it, and are not relevant to anything that is or will be at issue in this  
9 bankruptcy action. The Church would be seriously harmed by their unprotected  
10 presence in the Court's files. They, too, should be stricken, and returned to  
11 Armstrong, or, in the alternative, permanently sealed from public view.

12 **III. At Minimum, The Church's Confidential Scriptures Should Be Kept Under Seal**

13 This Court has already taken Volumes I and VI, which contain confidential  
14 materials, and placed them under seal. In the event that the materials are not stricken  
15 from the files, and shredded, the sealing order must be continued.

16 The United States Supreme Court has long recognized as an "uncontested  
17 proposition" that "the right to inspect and copy judicial records is not absolute," that  
18 "every court has supervisory powers over its own records and files..." and that pre-  
19 trial denial of access to judicial records may be appropriate in a variety of situations.  
20 Nixon v. Warner Communications, Inc., 435 U.S. 589, 598, 98 S.Ct. 1306, 1312,  
21 55 L.Ed.2d 570, (1978). Seattle Times v. Rhinehart, 467 U.S. 20, 104 S.Ct. 2199,  
22 81 L.Ed.2d 17 (1984) also confirms the proposition: "...to the extent that courthouse  
23 records could serve as a source of public information, access to that source  
24 customarily is subject to the control of the trial court." 467 U.S. 33, n. 19, 104 S.Ct.  
25 at 2207, n. 19. The trial court granted a confidentiality order in favor of plaintiff, a  
26 religious organization. In affirming, the Supreme Court recognized that plaintiff "had  
27 a recognizable privacy interest" and that revelation of material would "understandably  
28 result in annoyance, embarrassment and even oppression" not only to the religion



1 itself, but to its members. Id. at page 28, 2205. See also, Matter of Sealed  
2 Affidavit(s) to Search Warrants, 600 F.2d 1256, 1257 (9th Cir. 1979) (authority to  
3 deny access extends to sealing affidavits to protect confidential matters).

4 In keeping with Rule 9018, an order protecting these filings from public viewing  
5 is certainly in order.

#### 6 **IV. Armstrong Should Be Sanctioned For His Improper Filing**

7 Bankruptcy Code Rule 9011 provides in relevant part that,

8 The signature of . . . a party constitutes a certificate that the . .  
9 . party has read the document; . . . and that it is not interposed for any  
improper purpose, such as to harass or to cause unnecessary delay or  
10 needless increase in the cost of litigation or administration of the case.  
11 . . . If a document is signed in violation of this rule, the court on motion  
12 . . . shall impose on the person who signed it . . . an appropriate  
sanction, which may include an order to pay to the other party or parties  
the amount of the reasonable expenses incurred because of the filing of  
the document, including a reasonable attorney's fee.

13 Armstrong must be sanctioned, pursuant to this Rule, for his filing of all of the  
14 "evidence" in opposition to the motion, but most especially for filing the confidential  
15 documents as parts of Volumes I and VI. Armstrong knew before he filed these  
16 documents that they were not relevant to any issue before the Court. He also knew  
17 that they were confidential trade secrets and that, if he filed them in open court, the  
18 Church would be forced to take immediate and costly legal action to protect them.  
19 Indeed, this is precisely what happened when he filed them in Marin Superior Court.  
20 There, the documents were stricken, and Armstrong sanctioned, but only after the  
21 Church was forced to make an ex parte application for relief and two appearances.  
22 Armstrong knew that re-filing the documents here would have the same harassing  
23 effect on the Church, but chose to file them anyway. Under these circumstances,  
24 Armstrong should be required to pay the Church its fees and costs, in bringing this  
25 motion and the ex parte application, of \$1,000.00. Moreover, he should be ordered  
26 not to file any such documents with this Court again.

#### 27 **CONCLUSION**

28 Armstrong has destroyed the time of this Court and the Church by filing reams



PROOF OF SERVICE

STATE OF CALIFORNIA            )  
                                  ) ss.  
COUNTY OF LOS ANGELES        )

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Hollywood, CA 90028.

On May 23, 1995, I served the foregoing document described as CHURCH OF SCIENTOLOGY INTERNATIONAL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO STRIKE EVIDENCE FILED BY DEBTOR GERALD ARMSTRONG, OR, IN THE ALTERNATIVE TO PERMANENTLY SEAL VOLUMES I AND VI OF ARMSTRONG'S EVIDENCE IN SUPPORT OF MOTION FOR RELIEF FROM STAY AND FOR SANCTIONS on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

GERALD ARMSTRONG  
715 Sir Francis Drake Blvd.  
San Anselmo, CA 94960-1949

Jeffry G. Locke, Trustee  
P.O. Box 488  
Kentfield, CA 94914-0488

[X] BY MAIL

[ ] \*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of